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Attorneys for Gary Olesen, Victim's Representative

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**IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF UTAH  
CENTRAL DIVISION**

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Douglas Stewart Carter,

Petitioner,

**CASE No: 2:02 CV 326 TS**

v.

Memorandum in Support of Motion for  
Forthwith Scheduling of Status  
Conference in Order to Resolve Case

Steven Turley, Warden  
State Prison, Department of Corrections,  
Utah State Prison,

Judge Ted Stewart

Respondent.

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Victim's Representative, through counsel, submits the following memorandum in support of his Motion for Forthwith Scheduling of Status Conference in Order to Resolve Case.

## **BACKGROUND**

This case began April 22, 2002, when the Petitioner filed his Application for Permission to Proceed *In Forma Pauperis* and for Appointment of Counsel to Assist in the Investigation and Preparation of a Petition for Writ of Habeas Corpus. (Doc. 1) The Victim's Representative, Gary Olesen, through counsel filed a Memorandum to demand rights according to 18 U.S.C. §3771 (7) on June 11, 2008. (Doc. No. 261) Petitioner made two requests for extension of time on August 4<sup>th</sup>, 2008 and October 6, 2008. (Doc. 264 and Doc. 267) The Victim's Representative opposed Petitioner's motion for extension of time on October 6, 2008. (Doc. 268) On December 1, 2008, the Victim's Representative filed an Opposition to Petitioner's Memorandum in Opposition to Motion to Vacate Stay. (Doc. 274) On April 24, 2009, the Victim's Representative filed Victim's Representative's Memorandum Reasserting Victim's Rights. (Doc. 286) It has been about eight (8) years since the case began and about two (2) years since Victim's Representative asserted his rights in accordance with 18 U.S.C. §3771(c)(3).

## **ARGUMENT**

**THE CRIME VICTIM'S RIGHTS ACT REQUIRES THIS COURT TO ENSURE THE VICTIM'S REPRESENTATIVE'S RIGHT TO THE PROCEEDINGS BEING FREE FROM UNREASONABLE DELAY IN ACCORDANCE WITH 18 U.S.C. §3771(a)(8) IS MET.**

18 U.S.C. §3771(b)(2)(A) provides that in Federal habeas proceedings, the rights provided to victims of crime in (a)(7) and (a)(8) are ensured by the Court. Much delay has occurred in this case and the matter has yet to have even a scheduling order calling for a final resolution of this case. A crime victim shall have the right to proceedings free from unreasonable delay and the right to be treated with fairness and with respect for the victim's dignity and

privacy. *See* 18 U.S.C. §3771(a)(7) and (a)(8). The Court has not taken any action since it declared Respondent's Motion to Strike moot on January 25, 2010. The Court should order that a status conference be held to ensure the Victim's Representative rights are upheld. The Victim's Representative is an interested person in this case and is patiently awaiting justice for his loved one. Furthermore, justice delayed is justice denied.

### **CONCLUSION**

Wherefore, the Victim's Representative prays that this Honorable Court comply with the Court's duties and take up and decide this Motion forthwith. The Court should determine the Petition before this Court or alternatively hold a scheduling conference to issue an affirmative scheduling order to ensure Victim's Representative's right to proceedings free from unreasonable delay and to resolve all matters pending with this Court.

Respectfully submitted this 4<sup>th</sup> day of June 2010

/s/ Jani S. Tillery

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### **Certificate of Service**

I hereby certify that on this 4th day of June 2010, I electronically transmitted the Memorandum in Support of Motion for Forthwith Scheduling of Status Conference in Order to Resolve Case to the Clerk's Office using the ECF System for filing and transmittal of a Notice of Electronic Filing to the following ECF registrant(s):

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